

REMARKS

Claims 1, 2, 7, 8 and 14 are pending in this application. Claims 1, 2 and 7 have been amended and claim 13 has been withdrawn. Claim 14 has been added. Claims 3-6 and 9-13 stand currently withdrawn. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

Telephone Interviews with Examiner John Ford

Applicants would like to thank Examiner John Ford for the time extended to Applicants Representative, James M. McPherson, during several telephone Interviews made on June 20, 2006. During those Interviews, the Examiner and Applicants Representative discussed the previously made Restriction/Election requirement, the first response thereto and the possibility of rejoinder of patent claims based upon a determination of allowability of a generic claim. In sum, the Examiner agreed to consider additional traversing arguments in response to the previously made Restriction/Election requirement. Also, the Examiner agreed to rejoinder of the claims of any unelected species should the Examiner maintain his position with regards to the requirement and should it be determined there exist a generic allowable claim. Applicants hereby request confirmation, from the Examiner, of the details of the Interview, as described herein.

Restriction/Election Requirement

In the Office Action dated October 11, 2005, the Examiner subjected the pending claims to a Restriction/Election requirement asserting patently distinct species of the claimed invention. More specifically, the Examiner indicated eight illustrated species and potentially additional species located in the written description. In the most recent Office Action, the examiner treated the previous response to this restriction as an election without traverse, but did not make the action or determination final. Pursuant to 37 C.F.R. 1.143, Applicants are provided a right for reconsideration of the Restriction/Election requirement. However, as previously mentioned, the Examiner has already agreed to consider additional arguments pertaining to the formulated Restriction/Election requirement. Pursuant to 35 U.S.C. §121, Applicants

elect the first species, as shown in Fig. 1, with traverse. Applicants assert that claims 1 and 13 are generic and that claims 2, 7 and 8 are readable on the elected species.

In traversing this Restriction/Election requirement, the Applicants believe that consideration of all of the claims would not impose a serious burden on the Examiner. As recited in the Manual of Patent Examining Procedures, § 803:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Applicants believe that the features shown and described in the present invention, including the claims, are generally related to the same field of art and it would not be a serious burden to the Examiner to search and exam all of the features, as claimed. This is because searching species within subject matter as defined by other limitations of the claims does not appear, in the present case, overly burdensome. Also, the classification of search, for these claims, does not appear to be overly large. Still further, certain features of the non-elected species have already been discovered in the Examiner's search results. Reconsideration of the Restriction/Election requirement is respectfully requested.

Rejoinder of Withdrawn Claims Directed to Unelected Species

During the above mentioned telephone Interview, the Examiner also indicated that upon determination of allowability of a generic claim, all of the claims (e.g. elected and non-elected species) will be considered for patentability regardless whether the election is made with or without traverse. In doing this, the Examiner has indicated that he will either consider the claims previously withdrawn, or alternatively, notify the Applicants, via Quayle Action or otherwise, of the allowability of a generic claim and provide an opportunity to amend any withdrawn claims, to an unelected species, so as to place the claims in condition for allowance according to U.S. Patent & Trademark Office procedures.

Related Applications

In response to the Examiner's requirement of disclosure of known co-pending applications related to the same technology, which are assigned to the assignee of the present application, Applicants note U.S. Patent Publication No. 2003/0192952 (U.S. Patent Application No. 10/402,973), filed April 1, 2003. Applicant's representative believes that this comprises a complete list of related U.S. pending patent applications, other than those already indicated by the Examiner in the previous Office Action.

Rejection under 35 U.S.C. §112

Claim 13 has been rejected under U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection has been rendered moot.

Without acquiescing to the formulated rejection, Applicants have withdrawn claim 13 without prejudice or disclaimer of the subject matter contained therein. Applicants intend to pursue this claim at a later date.

Rejection under 35 U.S.C. §102(b) and §103(a)

Claims 1, 2 and 13 have been rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,059,015, to Rafalovich, or U.S. Patent No. 6,260,376, to Khelifa et al. Claims 7 and 8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rafalovich or Khelifa et al. and in further view of WO 01/40005, to Kang. Finally, claim 13 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Rafalovich or Khelifa et al. and in further view of U.S. Patent No. 5,957,193, to Kanada, or U.S. Patent No. 5,277,038, to Carr. Applicants have traversed and/or rendered these rejections moot.

Without acquiescing to the formulated rejection, Applicants have amended claim 1 to include "wherein a generator is provided for selectively supplying electricity to the electrically driven compressor when the motor vehicle is in an operating mode and wherein a battery is provided for selectively supplying electricity to the electrically driven compressor when the motor vehicle is in a stationary mode." Applicants have also amended claim 2 to include "wherein a generator is provided for selectively supplying electricity to the electrically driven pump when the motor

vehicle is in an operating mode and wherein a battery is provided for selectively supplying electricity to the electrically driven pump when the motor vehicle is in a stationary mode." Applicants believe that none of the prior art teaches or suggest these features. Accordingly, Applicants believes claim 1 is in condition for allowance. Likewise, claims 2, 7 and 8, which are dependent upon claim 1 are also believed to be allowable. Claim 13 has been withdrawn at this time rendering the rejection to this claim moot.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants reserve the right to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

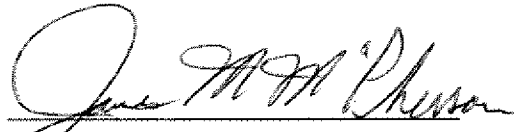
CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

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